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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,782	05/14/2001	Melissa Dee Aquino	7346	9666

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,782

Applicant(s)

AQUINO ET AL.

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitations of claims 6 and 7 appear to be a double recitation of claim 5 or depending on a wrong claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Gunnell (1,724,579). Gunnell discloses a container including liquid impervious walls (10) having inner and outer surfaces and an absorbent material (16) disposed on the inner surface of the container having antiseptic deposited thereon which is considered equivalent to an odor-neutralizing composition as claimed. The container of Gunnell is inherently capable for use in the disposal of food wastes.

5. Claims 1-5, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Caggiano (4,861,632). Caggiano discloses a container comprising a bag having liquid impervious walls (3)

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with inner and outer surfaces and an absorbent material (4) disposed on the inner surface of the container may be impregnated with a desiccant such as calcium chloride, silica gel or any other suitable desiccant material (column 4, lines 45-50) which is considered equivalent to an odor-neutralizing composition such as silica as claimed. Caggiano further discloses a liquid pervious liner (5, 6) positioned adjacent the absorbent material. The container of Caggiano is inherently capable for use in the disposal of food wastes.

6. Claims 1-4, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kannankeril (4,927,010). Kannankeril discloses a container comprising a bag (10) having liquid impervious walls (27, 28) with inner and outer surfaces and an absorbent material (35, 36) disposed on the inner surface of the container may be impregnated with a bacteriastatic agent such as a chlorine solution or common household chlorine bleach (column 3, lines 24-33) which is considered equivalent to an odor-neutralizing composition as claimed. Kannankeril further discloses a liquid pervious liner (33, 34, 40, 41) positioned adjacent the absorbent material. The container of Kannankeril is inherently capable for use in the disposal of food wastes.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caggiano (4,861,632) or Kannankeril (4,927,010) in view of the European Patent No. 0,811,390 to Guarracino. Caggiano or Kannankeril discloses the flexible bag as above having all the limitations of the claims except for the odor-neutralizing composition comprises a chelant. Guarracino shows an absorbent article having an odor control system comprising the combination of a chelating agent and at least one odor control absorber. It would have been obvious to one having ordinary skill in the art in view of Guarracino to modify the odor-neutralizing composition of Caggiano or Kannankeril so it includes a chelat for better controlling the odor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148. Facsimile correspondence for this application should be sent to (703) 305-3580 or (703) 872-9302 for Formal papers and (703) 872-9303 for After Final communications.



Luan K. Bui
Primary Examiner

lkb
November 15, 2002